

**REMARKS**

Reconsideration of the application as amended is respectfully requested.

The examiner respectfully rejected Claim 15 under 35 U.S.C. § 112, first paragraph, for containing subject matter not described in the specification to enable one skilled in the art to make or use the invention. The specification and Fig. 1 have been amended to fully disclose the integral spray bottle mentioned in the summary, and which was labeled "54" in Fig. 2 but inadvertently unexplained within the disclosure. The label of the integral spray mechanism has changed from "integral spray bottle" to "integral spray element." The amended specification and Fig. 1 should overcome the examiners rejection under 35 U.S.C. § 112, first paragraph.

The examiner respectfully rejected Claims 1 and 3-5 under 35 U.S.C. § 102(b) as being anticipated by Vallis.

In undertaking to determine whether one reference anticipates another under 35 U.S.C. 102(b), a primary tenet is that the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Many differences exist between the invention claimed in Vallis and the currently claimed invention.

Although Vallis teaches a device having an elongated handle with a head and outlet port

positioned along a center line of the apparatus, Vallis fails to teach a device that has a directional head having an angularly disposed directional nozzle. The dryer head disclosed by Vallis is not angularly disposed, as it only blows air in a linear direction at all times.

In addition, the member (1) disclosed in Vallis is attached and detached within the housing of the hair dryer about abutments provided in the internal housing. In contrast, the present invention provides attachments that are secured externally about the housing, and without the use of abutments.

In light of the numerous differences between Vallis and the present invention, the examiner's rejection of Claims 1 and 3-5 under 35 U.S.C. 102(b) is inappropriate.

The examiner respectfully rejected Claim 2 under 35 U.S.C. § 103(a) as being unpatentable over Vallis and in view of Weiss.

The differences between Vallis and the present invention have been stated above.

Weiss does disclose a power cord providing electricity and a hook attached to the body of the pistol-like hair dryer. However, Weiss does not teach a power cord having a hook incorporated therein, as is claimed in the present invention. The power cord and hook of the present invention are incorporated together as integral components attached to the base of the handle. Because Weiss neither claims nor discloses the power cord and hook arrangement disclosed by the present invention, and because there is no suggestion by Weiss nor Vallis to combine an incorporated integral power cord and hook arrangement, the examiner's rejection of Claim 2 under 35 U.S.C. § 103(a) is inappropriate.

The examiner respectfully rejected Claim 6 under 35 U.S.C. § 103(a) as being unpatentable over Vallis and in view of Scivoletto.

The differences between Vallis and the present invention have been stated above.

Scivoletto discloses an elongated brush attachment capable of receiving a single strap for securely holding the attachment to the hair dryer. However, Scivoletto does not disclose a brush attachment having a series of tethers that are integral with the brush attachment. The tethers disclosed in the present invention are affixed to the brush attachment in manner that does not require repetitive attachment and detachment of the tethers to the brush attachment. In addition, the series of tethers provide additional stability in holding the brush attachment in place.

Because Scivoletto neither discloses nor claims a series of tethers integrally attached with the brush attachment, and because there is no suggestion in Vallis or Scivoletto to combine a hair dryer with an attachment having a series of tethers integrally attached to a brush attachment, the examiner's rejection of Claim 6 under 35 U.S.C. § 103(a) is inappropriate.

The examiner respectfully rejected Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Vallis and in view of Barr, Jr.

Claim 7 has been amended, incorporating into the claim the electrical blade contacts disclosed in the application, thereby providing a means for not only holding the hair dryer and various attachments, but also providing electricity to the hair dryer with the necessity of plugging and unplugging the cord. Thus, Claim 7, as amended, should overcome the combination of Vallis and Barr, Jr. and be in a condition for allowance.

The examiner respectfully rejected Claims 8-10 under 35 U.S.C. § 103(a) as being unpatentable over Vallis.

The differences between Vallis and the present invention have been stated above. The examiner states that it would have been obvious to vary the diameter of the Vallis apparatus. However, Vallis neither discloses nor claims a series of brush attachments having various sizes. In contrast, the present invention discloses various sized brush attachments which are suited to and adaptable for use with various styles, lengths and textures (such as coarse hair versus fine hair). Because Vallis fails to teach a series of brush attachments of various sizes adapted for use with differing styles, lengths and textures of hair, the examiner's rejection of Claims 8-10 under 35 U.S.C. § 103(a) is inappropriate.

The examiner respectfully rejected Claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Vallis and in view of Helbling.

Claim 11 has been canceled without prejudice.

The examiner respectfully rejected Claims 12-14 under 35 U.S.C. § 103(a) as being unpatentable over Vallis.

The differences between Vallis and the present invention have been stated above. In addition, Vallis neither discloses nor claims a wood brush attachment, and instead discloses a device manufactured from plastic. If it was obvious to Vallis to use a wood brush attachment, a wood brush attachment alternative would have been disclosed. Although Depoyian discloses a wooden brush attachment, Depoyian fails to disclose a wooden brush attachment which is in

fluid communication with the heating coils of the hair dryer. Depoyian requires the heat generated by the heat source to be forced up and then through the apertures of the brush attachment. In contrast, the wooden brush attachment disclosed by the present invention allows the heated air generated from the coils to pass directly through in a linear path, creating a more efficient hair drying system. Thus, according to the noted differences of Vallis and Depoyian in relation to the present invention, the examiner's rejection of Claims 12-14 under 35 U.S.C. § 103(a) is inappropriate.

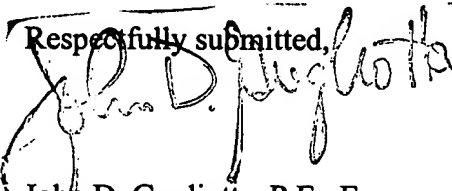
Based upon the above arguments, it is felt that the differences between the present invention and all of these references are such that rejection based upon 35 U.S.C. § 103(a), in addition to any other art, relevant or not, is also inappropriate. However, by way of additional argument applicant wishes to point out that it is well established at law that for a proper *prima facie* rejection of a claimed invention based upon obviousness under 35 U.S.C. § 103(a), the cited references must teach every element of the claimed invention. Further, if a combination is cited in support of a rejection, there must be some affirmative teaching in the prior art to make the proposed combination. See Orthopedic Equipment Company, Inc. et al. v. United States, 217 USPQ 193, 199 (Fed. Cir. 1983), wherein the Federal Circuit decreed, "Monday Morning Quarter Backing is quite improper when resolving the question of obviousness." Also, when determining the scope of teaching of a prior art reference, the Federal Circuit has declared:

"[t]he mere fact that the prior art could be so modified should not have made the modification obvious unless the prior art suggested the desirability of the modification." (Emphasis added). In re Gordon, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

There is no suggestion as to the desirability of any modification of the references to describe the present invention. An analysis of the disclosures within the cited references fails to cite every element of the claimed invention. When the prior art references require a selective combination to render obvious a subsequent claimed invention, there must be some reason for the selected combination other than the hindsight obtained from the claimed invention itself. Interconnect Planning Corp v. Feil, 774 F.2d 1132, 227 USPQ 543 (CAFC 1985). There is nothing in the prior art or the Examiners arguments that would suggest the desirability or obviousness of making a hair drying apparatus with various sized attachments and having a water spray mechanism for re-wetting hair. Uniroyal, Inc. v. Rudkki-Wiley Corp., 837 F.2d 1044, 5 USPQ 2d 1432 (CAFC 1988). The examiner seems to suggest that it would be obvious for one of ordinary skill to attempt to produce the currently disclosed invention. However, there must be a reason or suggestion in the art for selecting the design, other than the knowledge learned from the present disclosure. In re Dow Chemical Co., 837 F.2d 469, 5 USPQ.2d 1529 (CAFC 1988); see also In re O'Farrell, 853 F.2d 894, 7 USPQ 2d 1673 (CAFC 1988).

To summarize, it appears that only in hindsight does it appear obvious to one of ordinary skill in the pertinent art to combine the present claimed and disclosed combination of elements. To reject the present application as a combination of old elements leads to an improper analysis of the claimed invention by its parts, and instead of by its whole as required by statute. Custom Accessories Inc. v. Jeffery-Allan Industries, Inc., 807 F.2d 955, 1 USPQ 2d 1197 (CAFC 1986); In re Wright, 848 F.2d 1216, 6 USPQ 2d 1959 (CAFC 1988).

Therefore, in view of foregoing amendments and clarifications, the applicant submits that allowance of the present application and all remaining claims, as amended, is in order and is requested.

Respectfully submitted,  
  
John D. Gugliotta, P.E., Esq.  
Registration No. 36,538

The Law Offices of John D. Gugliotta  
202 Delaware Building  
137 South Main Street  
Akron, OH 44308  
(330) 253-5678  
Facsimile (330) 253-6658